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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FREDERICK SCHIFF,  
Plaintiff,

v.

CITY AND COUNTY OF SAN FRANCISCO,  
et al.,  
Defendants.

No. C-03-4345 MMC  
No. C-04-2261 MMC  
No. C-04-2262 MMC

**ORDER GRANTING PLAINTIFFS' RULE  
56(F) REQUEST TO CONTINUE  
HEARING ON DEFENDANT FRED LAU'S  
MOTION FOR SUMMARY  
ADJUDICATION**

NARDA GILLESPIE et al.,  
Plaintiffs,

v.

CITY AND COUNTY OF SAN FRANCISCO,  
et al.,  
Defendants.

MARK OSUNA,  
Plaintiff,

v.

CITY AND COUNTY OF SAN FRANCISCO,  
et al.,  
Defendants.

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1 Before the Court is the motion for summary adjudication on the issue of qualified  
2 immunity, filed September 1, 2005 by defendant Fred Lau ("Lau"), a former San Francisco  
3 Chief of Police. The motion is scheduled to be heard October 28, 2005. In plaintiffs' joint  
4 opposition to the motion, they seek a continuance of the hearing, pursuant to Rule 56(f) of  
5 the Federal Rules of Civil Procedure. In particular, plaintiffs state they need additional time  
6 to depose current San Francisco Chief of Police Heather Fong, former San Francisco  
7 Chief of Police Alex Fagan ("Fagan"), and certain unnamed members of the Police Officers  
8 Association ("POA") and Officers For Justice ("OFJ"), in order to further explore and, if  
9 available, obtain admissible evidence relating to deposition testimony recently obtained  
10 from Captain Rick Bruce ("Bruce") that Fagan told him Lau had made a deal with the POA  
11 and OFJ by which African-American candidates for Lieutenant would be promoted before  
12 non-African-American candidates. Specifically, Captain Bruce testified that Fagan told him  
13 that Lau, the POA, and the OFJ had "agreed that the first 25 appointments would be . . .  
14 made in rank order, so long as once the band opened up, all of the African-American  
15 candidates were appointed at the front of the band." (See Bruce Dep. at 25:9-15 (attached  
16 to Plaintiffs' Joint Opp.)). Bruce also testified it was his understanding that the number of  
17 rank order appointments "was negotiated with input from statistical experts," taking into  
18 account the number of African-American candidates that would be included in the band  
19 from which the remainder of the appointments would be made. (See id. at 29:21-32:5.)

20 For good cause shown, plaintiffs' request for a Rule 56(f) continuance is hereby  
21 GRANTED, and the hearing scheduled for October 28, 2005 is hereby VACATED. The  
22 parties shall meet and confer within seven days of the date of this order to schedule the  
23 necessary depositions and to attempt to agree on a briefing and hearing schedule. No later  
24 than ten days from the date of this order, the parties shall file (1) a stipulated deposition  
25 schedule, and either (2) a stipulated proposed schedule for filing, briefing, and hearing an  
26 amended motion for summary adjudication, or (3) a stipulated proposed schedule for filing  
27 amended opposition and reply briefs in response to the currently-filed  
28

1 motion, and for the hearing thereon.

2 **IT IS SO ORDERED.**

3 Dated: October 18, 2005

  
MAXINE M. CHESNEY  
United States District Judge